

the auto liability insurer for Thomas McFadden ("McFadden") and that McFadden's insurer had accepted Blue Cab's "target tender."

4. On February 26, 2008, I sent a letter to Mr. Barakat memorializing our telephone call of February 21, 2008 and requesting a copy of the "target tender" letter from Blue Cab. Attached hereto as **Exhibit A** is a true and correct copy of the February 26, 2008 letter. Mr. Barakat did not respond to the February 26, 2008 letter.

5. I sent several additional letters to Mr. Barakat requesting a copy of the "target tender" letter from Blue Cab. A true and correct copy of one such letter, dated April 8, 2008, is attached hereto as **Exhibit B**. Mr. Barakat did not respond to those requests and did not deny that such a letter existed.

6. On January 13, 2010, I sent a letter to First Chicago Insurance Company ("First Chicago"), the automobile liability insurer for McFadden. My letter stated: "We understand that Blue Cab has target tendered its defense in the Sanders Lawsuit to First Chicago, and that First Chicago accepted Blue Cab's tender without reservation." The January 13, 2010 letter specifically requested a response from First Chicago if this information was inaccurate. I never received documentation or information indicating that Cincinnati's understanding in this regard was incorrect.

7. In June 2010, First Chicago asked Cincinnati to pay 50% of Blue Cab's defense bills. On June 23, 2010, I sent First Chicago a letter rejecting that request. My letter cited Cincinnati's understanding that Blue Cab had "target tendered" its defense in the Sanders Lawsuit to First Chicago, and that First Chicago had accepted that request and assumed control of Blue Cab's defense. Attached hereto as **Exhibit C** is a true and correct copy of the June 23, 2010 letter. First Chicago thereafter withdrew its request.

8. I performed an internet search using Google Maps to determine the exact location of the Accident in relation to the M&C Motors garage. Attached hereto as **Exhibit D** is a true and correct copy of the result of that Google Maps search.

By: Hope Nightingale
Hope G. Nightingale

Subscribed and Sworn
to before me this 3rd
day of May, 2012.

Jean M Wierzbinski
Notary Public



LITCHFIELD
Attorneys at Law **CAVO** LLP

WRITER'S ADDRESS:
303 West Madison Street
Suite 300
Chicago, IL 60606
312-781-6614
312-781-6630 (fax)

Hope G. Nightingale
Email: nightingale@litchfieldcavo.com

February 26, 2008

VIA FACSIMILE

Dean Barakat
Nyhan Bambrick Kinzie & Lowry
20 N. Clark Street, Suite 1000
Chicago, IL 60602-4195

Re: Insured Blue Cab Co.
Claim No.: 813309
Policy No.: CAP 581 71 81
D/L: 9/23/07
Lawsuit: *Sanders v. McFadden et al.*, No. 07 L 13584 (Cook County, IL)


Dear Dean:

Thanks for talking with us last week regarding various insurance issues raised by the case of *Sanders v. McFadden et al.*, No. 07 L 13584 (Cook County, IL) (the "*Sanders* suit"). As you know, Kathy Bianco and I represent Cincinnati Insurance Company, which issued a policy to Blue Cab Company.

You told us last week that Blue Cab had already sent a letter that "target tendered" its defense to Thomas McFadden and his personal automobile insurer, First Chicago Insurance Company ("First Chicago"). We also understand that First Chicago retained Guth Rubio, Ltd. to defend both Blue Cab and Thomas McFadden. As First Chicago apparently accepted Blue Cab's target tender, Cincinnati has no obligation to provide a defense to Blue Cab at this time, in connection with the *Sanders* lawsuit.

We have not yet received a copy of that target tender letter sent by Blue Cab. We would appreciate receiving it at your earliest convenience.

Very truly yours,


Hope G. Nightingale

LITCHFIELD
Attorneys at Law **CAVO** LLP

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TELECOPIER TRANSMISSION INFORMATION SHEET

Please deliver the following pages to:

Name: Dean Barakat
Company: Nyhan Bambrick Kinzie & Lowry
TELECOPIER: 312-629-8518
TELEPHONE: 312- 629-9800
From: Hope G. Nightingale
Date: February 25, 2008

Message: Insured: Blue Cab Company
Policy No.: CAP 581 71 81
D/L: 9/23/07
Claim No: 813309
Lawsuit: Sanders v. McFadden, et al.,
No. 07 L 13584, Cook County, IL

Total number of pages sent, including this page: 2

IF YOU DO NOT RECEIVE ALL PAGES, PLEASE CALL (312) 781-6652

FOR TELECOPIER OPERATOR:

Date completed: 2/26/08

Name of Operator: Julie Rodriquez

Time completed: 12:31 a.m./p.m.

CHARGE: Client Name: Cincinnati Insurance Company/Blue Cab Co.

File Number: 9074-1922-

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Hope G. Nightingale
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April 8, 2008

VIA FACSIMILE

Dean Barakat
Nyhan Bambrick Kinzie & Lowry
20 N. Clark Street, Suite 1000
Chicago, IL 60602-4195

FILE COPY

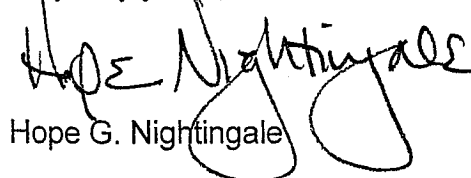
Re: Insured Blue Cab Co.
Claim No.: 813309
Policy No.: CAP 581 71 81
D/L: 9/23/07
Lawsuit: *Sanders v. McFadden et al.*, No. 07 L 13584 (Cook County, IL)

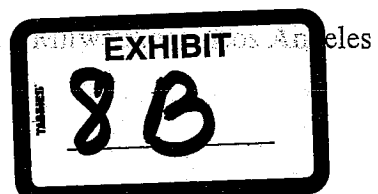
Dear Dean:

This letter is written in follow-up to our letters of February 26, 2008 and March 4, 2008. We understand that Blue Cab has "target tendered" Thomas McFadden's personal automobile insurer, First Chicago Insurance Company ("First Chicago") and "deselected" Cincinnati Insurance Company ("Cincinnati") in relation to Blue Cab's defense in the *Sanders* lawsuit. First Chicago is providing a defense to Blue Cab pursuant to that tender. As a result, Cincinnati has no obligation to provide a defense to Blue Cab at this time, in connection with the *Sanders* lawsuit. If we have misunderstood any of the above, please contact me immediately.

We have not yet received a copy of that target tender letter sent by Blue Cab. We would appreciate receiving it at your earliest convenience.

Very truly yours,


Hope G. Nightingale



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Attorneys at Law

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TELECOPIER TRANSMISSION INFORMATION SHEET

Please deliver the following pages to:

Name: Dean Barakat

Company: Nyhan Bambrick Kinzie & Lowry

TELECOPIER: 312-629-8518

TELEPHONE: 312- 629-9800

From: Kathleen L. Bianco

Date: April 8, 2008

FAXED
4-8-08

Message: Insured: Blue Cab Company
Policy No.: CAP 581 71 81
D/L: 9/23/07
Claim No: 813309
Lawsuit: *Sanders v. McFadden, et al.,*
No. 07 L 13584, Cook County, IL

Total number of pages sent, including this page: 2

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FOR TELECOPIER OPERATOR: Date completed: 4-8-08
Name of Operator: *Sherry* Time completed: 4:50 *[Signature]* a.m./p.m.
CHARGE: Client Name: Cincinnati Insurance Company/Blue Cab Co.
File Number: 9074-1922-

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Hope G. Nightingale
Email: nightingale@litchfieldcavo.com

June 23, 2010

Anita Bailey
Litigation Specialist
First Chicago Insurance Company
6640 S. Cicero Avenue
Bedford Park, IL 60638

Re:	Your claim no.:	109423 (Thomas McFadden)
	Cincinnati claim no.:	813309 (Blue Cab Company)
	D/L:	9/23/2007
	Lawsuit:	<i>Rose M. Washington-Sanders v. Thomas McFadden and Blue Cab Co., Case No. 07 L 13584 (Cook County, IL)</i>

Dear Ms. Bailey:

This letter responds to yours of June 16, 2010, asking Cincinnati Insurance Company ("Cincinnati") to pay 50% of the cost of defending Blue Cab Company in the *Sanders* case. Cincinnati has no obligation to do so, for numerous reasons.

1. Blue Cab is a named insured under the policy issued to Thomas McFadden by First Chicago Insurance Company. Blue Cab is entitled to coverage under that policy for the *Sanders* case.

2. Blue Cab target tendered its defense in the *Sanders* case to First Chicago. First Chicago accepted that tender and assumed control of Blue Cab's defense. The defense obligation rests solely with First Chicago. Cincinnati has no obligation to contribute toward (much less pay for 50% of) Blue Cab's defense.

3. As we have previously stated, there is no coverage for the *Sanders* lawsuit under the Cincinnati policy. Even if there were any coverage, Cincinnati's coverage would be excess to the coverage provided by First Chicago. As an excess carrier, Cincinnati has no defense duty.

4. Despite your suggestion that Cincinnati pay 50% of those fees, Cincinnati knew – based on the above – that it had no obligation to pay for that defense. Your implication that Cincinnati agreed or offered to contribute to the cost of Blue Cab's defense is inaccurate.



LITCHFIELD
Attorneys at Law **CAVO LLP**


Anita Bailey
June 23, 2010
Page 2

If First Chicago fails to pay for Blue Cab's defense, Blue Cab would have a cause of action against First Chicago for breach of defense duty. First Chicago may already have breached its duties to Blue Cab by failing to provide independent counsel for Blue Cab from the beginning of this case.

I trust that the above provides sufficient reason for First Chicago to fulfill its defense obligations toward Blue Cab by paying the defense bills from Tribler Orpett & Meyer in full.

Please feel free to contact me if you would like to discuss the content of this letter.

Very truly yours,



Hope G. Nightingale

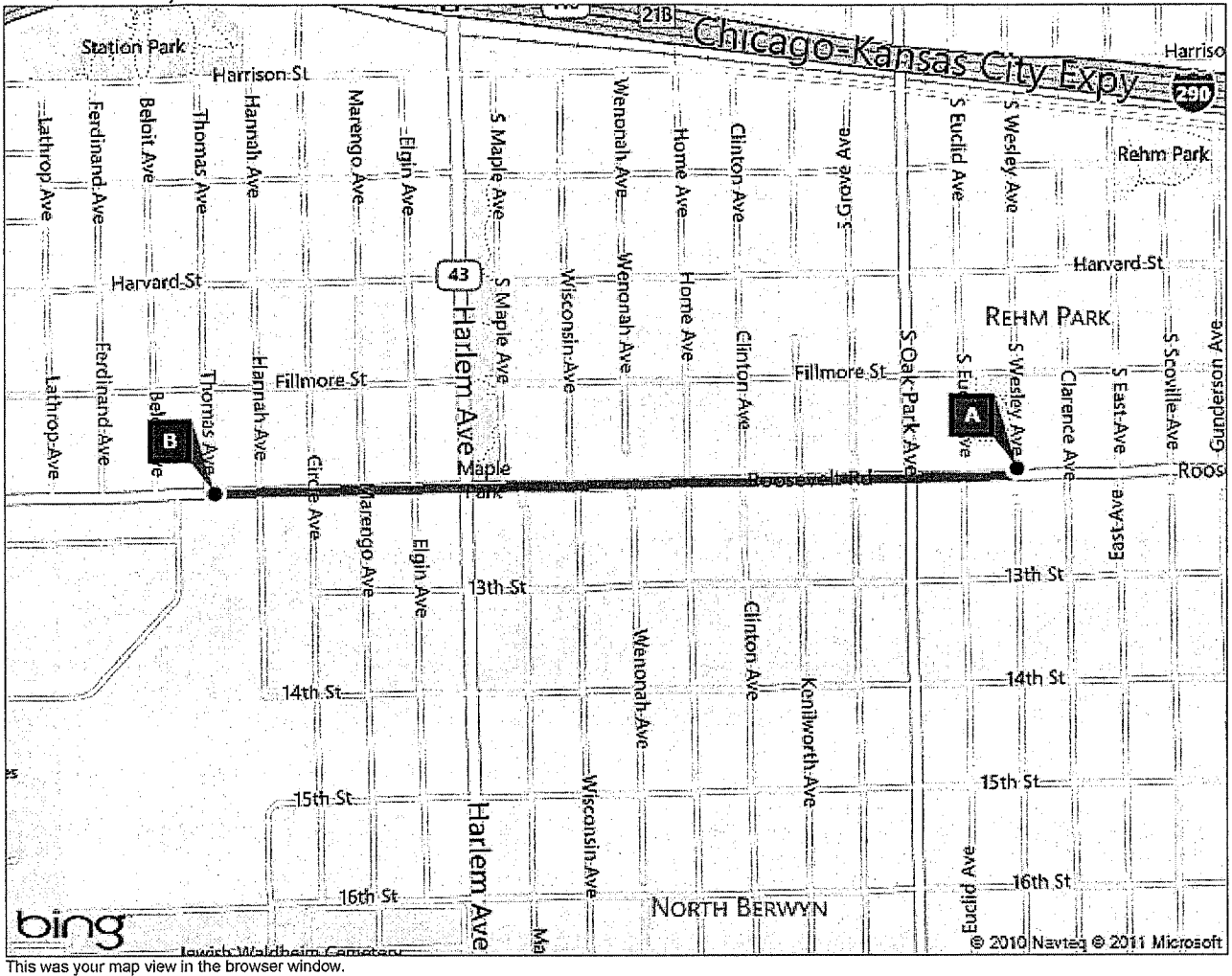
cc: Steve Weiss
Tribler, Orpett & Meyer
225 W. Washington
Chicago, IL 60606

Dean Barakat
Nyhan Bambrick Kinzie & Lowrey
20 N. Clark Street, Suite 1000
Chicago, IL 60602-4195

Jim Bennett
Blue Cab Co.
7417 Roosevelt Road
Forest Park, IL 60130

Steve Fogle (Cincinnati Insurance Co.)

Route: 1.0 mi, 3 min



A: 1199 S Wesley Ave, Oak Park, IL 60304



B: 7417 Roosevelt Rd, Forest Park, IL 60130

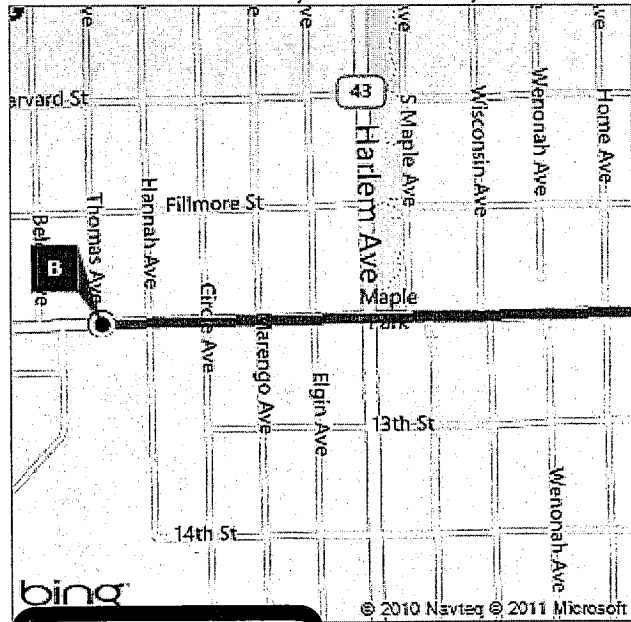


EXHIBIT
8D


bing Maps


A 1199 S Wesley Ave, Oak Park, IL 60304

B 7417 Roosevelt Rd, Forest Park, IL 60130

Route: 1.0 mi, 3 min

My Notes

 On the go? Use m.bing.com to find maps, directions, businesses, and more

A	1199 S Wesley Ave, Oak Park, IL 60304	A-B: 1.0 mi 3 min
	1. Depart S Wesley Ave toward Roosevelt Rd	46 ft
	2. Turn right onto Roosevelt Rd <i>BURGER KING on the corner</i>	1.0 mi
B	3. Arrive at 7417 Roosevelt Rd, Forest Park, IL 60130 <i>The last intersection is Hannah Ave</i> <i>If you reach Thomas Ave, you've gone too far</i>	

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